

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JESSICA WOFFORD,	)	No. C 14-02819 EJD (PR)
Petitioner,	)	ORDER TO SHOW CAUSE
v.	)	
SHERIFF FRANCISCO RIVERO,	)	
Respondent.	)	

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Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging her state conviction. Petitioner has paid the filing fee. (Docket No. 5.)

**BACKGROUND**

According to the petition, Petitioner was found guilty of driving under the influence in violation of Vehicle Code section 23152(a), after a jury trial in Lake County. (Pet. at 2.) Petitioner was sentenced to sixty days in jail. (Id. at 1.)

Petitioner filed a state petition for writ of habeas corpus in the California Supreme Court which denied review. (Id. at 4.)

Petitioner filed the instant federal habeas petition on June 18, 2014.

**DISCUSSION****A. Standard of Review**

This court may entertain a petition for a writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).

It shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” *Id.* § 2243.

**B. Legal Claims**

Petitioner claims that not all elements of § 23152(a) were alleged and proven, *i.e.*, the “essential” element of interstate commerce. She also claims that the prosecution failed to enter her DMV record into evidence, which deprived the court of jurisdiction. (Pet. at 5.) Liberally construed, these claims are cognizable under § 2254 as a violation of Petitioner’s right to due process and merit an answer from Respondent. *See In re Winship*, 397 U.S. 358, 364 (1970); *Jackson v. Virginia*, 443 U.S. 307, 321 (1979).

**CONCLUSION**

For the foregoing reasons and for good cause shown,

1. The Clerk shall serve by certified mail a copy of this order and the petition and all attachments thereto on Respondent and Respondent’s attorney, the Attorney General of the State of California. The Clerk also shall serve a copy of this order on Petitioner.

2. Respondent shall file with the court and serve on petitioner, within **sixty (60) days** of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the answer and serve


1 on Petitioner a copy of all portions of the state trial record that have been transcribed  
2 previously and that are relevant to a determination of the issues presented by the  
3 petition.

4 If Petitioner wishes to respond to the answer, she shall do so by filing a  
5 traverse with the Court and serving it on Respondent within **thirty (30) days** of his  
6 receipt of the answer.

7 3. Respondent may file a motion to dismiss on procedural grounds in lieu  
8 of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules  
9 Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall  
10 file with the Court and serve on Respondent an opposition or statement of non-  
11 opposition within **thirty (30) days** of receipt of the motion, and Respondent shall  
12 file with the court and serve on Petitioner a reply within **fifteen (15) days** of receipt  
13 of any opposition.

14 4. Petitioner is reminded that all communications with the court must be  
15 served on Respondent by mailing a true copy of the document to Respondent's  
16 counsel. Petitioner must also keep the Court and all parties informed of any change  
17 of address.

18  
19 DATED: 11/3/2014

  
EDWARD J. DAVILA  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JESSICA WOFFORD,  
Petitioner,

Case Number: CV14-02819 EJD

**CERTIFICATE OF SERVICE**

v.

SHERIFF FRANCISCO RIVERO,  
Respondent.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 11/3/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jessica L. Wofford  
c/o 3345 Lakeshore Blvd. #14  
Lakeport, CA 95453

Dated: 11/3/2014

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk